

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-148-A

ARAFAT NAGI,

Defendant.

**NOTICE OF MOTION AND MOTION FOR A PROTECTIVE ORDER AND FOR
RETURN OF 3500 MATERIAL UPON CONCLUSION OF TRIAL**

PLEASE TAKE NOTICE that, upon an affidavit filed herewith, the undersigned moves the Court for a Protective Order and for return of 3500 material at the conclusion of the trial scheduled for January 23, 2018.

DATED: Buffalo, New York, January 5, 2018.

JAMES P. KENNEDY, JR.
United States Attorney

BY: s/TIMOTHY C. LYNCH
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716-843-5846
Timothy.Lynch@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-148-A

ARAFAT NAGI,

Defendant.

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

TIMOTHY C. LYNCH, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and I am the lead prosecutor assigned to the prosecution of this case. As trial is presently scheduled for January 23, 2018, this affidavit is made in support of the government's motion for a Protective Order and for return of 3500 material at the conclusion of the trial.

2. Pursuant to the pre-trial Scheduling Order issued by the Court, the government intends to file its pre-trial memorandum, witness list, and other required filings on or before January 10, 2018. The parties have agreed to a proposed Protective Order, which has already been submitted to the Court. In anticipation of the Protective Order being signed by the

Court, government counsel provided defense counsel with 3500 material pertaining to government witnesses on January 5, 2018, in an effort to ensure that trial proceedings occur in an orderly and efficient manner.

3. Many of the government's witnesses are relatives and close friends of the defendant, who, despite the seriousness nature of the charges, have agreed to testify against the defendant regarding the defendant's attempts to join ISIS. Many of these witnesses regularly travel overseas, so public disclosure of their identities at this time could place them in jeopardy. In addition, in the government's view, the purpose of the government's witness lists, motions *in limine* and pre-trial memorandum is to assist the Court and defense counsel in preparation for trial. The purpose is not for the public to learn the identities of the government's witnesses prior to them providing testimony. Furthermore, the Protective Order will prevent the defendant from publically disclosing the materials prior to the government's witnesses testifying.

4. The government's request for a Protective Order does not seek to limit defense counsel's ability to discuss the information contained in the 3500 material, Giglio information, the government's pre-trial memorandum, the government's witness list, or the government's exhibit list, with the defendant. Rather, the proposed Protective Order is intended to prevent defense counsel from copying and disseminating copies of such materials to the defendant or to any third-parties. Finally, as the proposed Protective Order has been agreed to by the defense, so there is no prejudice to the defendant.

WHEREFORE, for the foregoing reasons, the United States respectfully requests that the Court issue the Protective Order proposed by the parties.

s/TIMOTHY C. LYNCH
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716-843-5846
Timothy.Lynch@usdoj.gov

Sworn and subscribed to before me

this 5th day of January, 2018.

s/LISA M. QUEST
COMMISSIONER OF DEEDS
In And For The City Of Buffalo, N.Y.
My Commission Expires Dec. 31. 2018.